



Docket No: 33546-01  
Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: **Michael Aven**  
Serial No.: **09/491,708** Examiner: **Alton Pryor**  
Filed: **January 26, 2000** Art Unit: **1616**  
For: **NON-AQUEOUS, EMULSIFIABLE CONCENTRATE FORMULATION**

Assistant Commissioner for Patents  
Washington, DC 20231

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Response under 37 CFR 1.111

This is in response to the Office Action mailed August 2, 2000 in this application. A petition for a 4-month extension of the period for response is being filed concurrently.

Remarks

The Examiner has determined that this application contains claims directed to patentably distinct species of non-aqueous concentrates and required Applicant under 35 USC §121, to elect a single disclosed species for prosecution on the merits. This requirement is respectfully traversed.

Although there are patentably distinct species present in the claims, it would not be unduly burdensome on the Examiner to search for all the inventions claimed herein. The search for "non-aqueous concentrates" of the azole would necessarily also include all species encompassed by the other entities in the concentrates of the invention. Reconsideration of the restriction requirement is respectfully requested.

In the case the Examiner remains unconvinced by the above remarks, Applicant hereby provisionally elects the invention wherein the species a<sup>1</sup> is metconazol, b is Synperonic® 91-6, d is Rhodocae 70/B and e is n-odylpyrrolidone. Examples C-H read on these species.